

**23/02238/FUL**

**Applicant** Holly Tree Tithby Ltd

**Location** Hollytree Farm Cropwell Road Tithby Nottinghamshire NG13 8GS

**Proposal** Proposed residential conversion of brick-built threshing barn, cart-shed and stable building and the residential redevelopment of the balance of the former farm complex with 6 no. new dwellings, including associated landscaping, car parking and access works

**Ward** Cropwell

## THE SITE AND SURROUNDINGS

Details of the application can be found [here](#)

1. The application relates to land to the south of Cropwell Road and west of Tythby Road encompassing a collection of portal-framed agricultural buildings, traditional red-brick agricultural buildings and a cart shed to the north of the site, areas of hardstanding and a hard surfaced enclosure to the west of the site. The site is set behind residential properties fronting Cropwell Road. The site is currently served by two access points from Tythby Road. The Grade I Listed Church of the Holy Trinity is located to the north of Cropwell Road, along with its associated listed churchyard wall and headstones/ chest tombs. The Grade II Listed Old Vicarage is located to the north west of the site.
2. The site falls within the Green Belt.

## DETAILS OF THE PROPOSAL

3. The application seeks planning permission for the demolition of the existing portal framed barns and enclosure and the erection of six detached dwellings, along with the residential conversion of the brick barn to the north of the site to form a seventh dwelling and the use of the associated cart shed for parking. The site would be accessed from the existing northernmost access from Tythby Road, the southernmost field access would be closed. The proposed dwellings would be of a mix of contemporary designs, summarised as follows:
  - Plot 1- Property Type A  
A 5-bed two storey brick dwelling with a seam metal roof and attached garage.
  - Plot 2- Property Type B  
A 5-bed 'one-and-a-half' storey brick dwelling with the first floor partly within the roof space, with a single storey side projection clad in timber. Integral double garage.
  - Plot 3- Property Type C

A 5-bed two storey dwelling faced in vertical seam metal cladding and timber.

- Plots 4- 5- Property Type D  
4-bed two storey dwellings clad in timber, each with an integral garage.
- Plot 6- Property Type E  
A 5-bed part single storey and part two storey dwelling faced in Corten steel with brick and timber facing to the single storey elements and a green roof to the single storey elements.
- Plot 7- Barn conversion  
Addition of windows to elevations including full-height glazing in place of the opening to the south elevation, alterations to fenestrations including the bricking up of opening to the northern elevation, new roof lights to northern roof slope.

## **SITE HISTORY**

4. 15/02815/FUL - Conversion and change of use of vacant agricultural buildings to residential use (Use Class C3) and demolition of other agricultural buildings – Approved in 2016
5. 21/00820/FUL- Proposed residential use of existing agricultural buildings to create 3no. dwellings. Landscaping and associated external works. Approved in 2021.
6. 22/00458/FUL- Conversion of existing agricultural buildings to form 6 No. residential dwellings including associated landscaping, car parking and access works (Revised scheme of 21/00820/FUL). Approved in 2022.

## **REPRESENTATIONS**

### **Ward Councillor(s)**

7. Cllr Birch does not object. However he agrees with the comments of the Parish Meeting that careful consideration must be given to drainage in light of the recent flooding issues near the site.
8. In additional comments Cllr Birch furthered his support for the scheme, identifying vast increases to the openness of the countryside (net volume decrease of c.20%), overwhelming local support, and large biodiversity gains. The Cllr identifies this scheme as a once in a lifetime development opportunity which brings so many benefits to Tithby.

### **Town/Parish Council**

9. Tithby and Wiverton Parish Meeting does not object, and confirm they fully support the scheme. However they do have concerns regarding surface and waste water drainage and seek adequate measures to be incorporated into the plans. Recent flooding of the existing drainage in the village caused the road to be closed for a number of days.

### **Statutory and Other Consultees**

10. The Highway Authority (Nottinghamshire County Council) does not object, however they note that they would need to be indemnified from the cost of

making up the streets and private maintenance agreements would need to be sought. Conditions and informative notes are recommended as detailed in the consultee response.

11. Nottinghamshire County Council Archaeology have no comments or recommendations to make.
12. The Borough Council's Environmental Sustainability Officer notes that the submitted bat survey report is in-date and appears to have been completed in accordance with good practice. A bat mitigation plan is recommended. It is likely that a bat mitigation license from Natural England would be required. The recommendations for reasonable avoidance measures and enhancement measures should be implemented, subject to this it is unlikely that the development would have a detrimental impact on populations of protected species.
13. The Borough Council's Environmental Health Officer does not object subject to conditions in relation to contaminated land and the importation of soils. Informative notes in relation to hours of construction and asbestos removal are recommended.
14. The Borough Council's Conservation Officer considers that the proposal would not harm the special interest of listed buildings in the vicinity. It is recommended that the existing vegetation to the northern boundary is retained to maintain the verdant and sylvan character of the lane. It is not considered that the proposal would harm the significance of the barn, cart shed and stables which are considered non-designated heritage assets. Revisions to proposed roof lights are recommended reuse existing openings and minimise new openings where possible, where a stable door is to be blocked it is recommended that the opening is instead glazed. Chimneys are not typically associated with barns. The consultee response sets out a number of recommended conditions should planning permission be granted.

### **Local Residents and the General Public**

15. Ten representations have been received in support with comments summarised as follows:
  - a) Improved appearance compared to existing buildings
  - b) Buildings smaller than existing, less impact on Green Belt
  - c) Good design/ in keeping with village
  - d) Existing buildings of a negative appearance and a hazard
  - e) Sustainable construction of new buildings
  - f) Increased biodiversity
  - g) Development would remove large areas of concrete and reduce runoff
  - h) Drainage needs to be considered due to recent increased flooding
16. One representation has been received neither objecting to or supporting the application with comments summarised as follows:
  - a) An effective on-site SUDS drainage scheme and enhanced biodiversity should be required and protected by planning condition.
17. No representations have been received in objection.

Full comments can be found [here](#)

## PLANNING POLICY

18. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy (LPP1) and the Local Plan Part 2: Land and Planning Policies (LPP2). Other material considerations include the National Planning Policy Framework (NPPF)(December 2023), the National Planning Practice Guidance (the Guidance), and the 2009 Rushcliffe Residential Design Guide

### Relevant National Planning Policies and Guidance

19. The relevant policy considerations in the NPPF are:
- Paragraph 11c)
  - Chapter 11 (Making effective use of land)
  - Chapter 12 (Achieving well- designed and beautiful places)
  - Chapter 13 (Protecting Green Belt Land)
  - Chapter 14 (Meeting the challenge of climate change, flooding and coastal change).
  - Chapter 15 (Conserving and Enhancing the Natural Environment)
  - Chapter 16 (Conserving and Enhancing the Historic Environment)

Full details of the NPPF can be found [here](#).

20. The Conservation of Habitat and Species Regulations 2017, and the Wildlife and Countryside Act (as amended) 1981 - These regulations/legislation contain certain prohibitions against activities affecting European Protected Species, such as bats. These include prohibitions against the deliberate capturing, killing or disturbance and against the damage or destruction of a breeding site or resting place of such an animal. The Habitats Directive and Regulations provides for the derogation from these prohibitions in certain circumstances.
21. Natural England is the body primarily responsible for enforcing these prohibitions and is responsible for a separate licensing regime that allows what would otherwise be an unlawful act to be carried out lawfully.
22. The Council as local planning authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England and the “three tests” under the Regulations being satisfied. Natural England will grant a licence where the following three tests are met:
1. There are “imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”;
  2. there is no satisfactory alternative; and
  3. the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

## Relevant Local Planning Policies and Guidance

23. The relevant policy considerations in the LPP1 are:
- Policy 1 (Presumption in Favour of Sustainable Development)
  - Policy 2 (Climate Change)
  - Policy 3 (Spatial Strategy)
  - Policy 4 (Nottingham- Derby Green Belt)
  - Policy 8 (Housing Size, Mix and Choice)
  - Policy 10 (Design and Enhancing Local Identity).
  - Policy 11 (Historic Environment)
  - Policy 14 (Managing Travel Demand)
  - Policy 17 (Biodiversity)
24. The relevant policy considerations in the LPP2 are:
- Policy 1 (Development Requirements)
  - Policy 12 (Housing Standards)
  - Policy 18 (Surface Water Management)
  - Policy 21 (Green Belt)
  - Policy 28 (Conserving and Enhancing Heritage Assets)
  - Policy 29 (Development Affecting Archaeological Sites)
  - Policy 37 (Trees and Woodlands)
  - Policy 38 (Non Designated Biodiversity Assets and the Wider Ecological Network)
  - Policy 40 (Pollution and Land Contamination)
25. The full text of the policies in the LPP1 and LPP2, together with the supporting text, and the Residential Design Guide can be found in the Local Plan documents on the Council's website at: [Planning Policy - Rushcliffe Borough Council](#)

## APPRAISAL

26. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

### Principle of development

27. The proposal falls to be considered under Policy 3 of the LPP1 which states that in other settlements beyond the main built-up area of Nottingham and the identified Key Settlements, development will be for local needs only. The explanatory text at Paragraph 3.3.17 states that local needs will be delivered through small scale infill development or on exception sites. Paragraph 3.10 of the Local Plan Part 2 clarifies that development to meet 'local needs' at 'other villages' will be limited to small scale infill, exception sites and allocations in neighbourhood plans.
28. Tithby is not a key settlement for growth, nor is it one of the other villages identified as having the potential for growth under the LPP2. The proposal

would not comprise limited infill development within a settlement defined under paragraph 6.10 of the LPP2 or meet local need as envisaged in paragraph 3.3.17 of the LPP1 and it would not therefore comply with Policy 3 of the LPP1.

29. Tithby does not have public transport links and with the exception of the Church, there are no facilities within the settlement. There is a public house approximately a mile from the site at Cropwell Butler. The closest shop is a small supermarket at Cropwell Bishop approximately 1.8 miles from the site. It is not considered that this could be practically relied upon to support the day-to-day needs of future residents without the use of a car. The development would therefore be car-reliant.
30. The unsustainable nature of the site would be contrary to Policy 14 (Managing Travel Demand), paragraph 1 whereby "The need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations following the Spatial Strategy in Policy 3, in combination with the delivery of sustainable transport networks to serve these developments". The unsustainable location of the site would also be contrary to Policy 39(2)(b) of the LPP2 which states that where applicable, development proposal should promote, support and enhance health by "providing employment developments in locations that are accessible by cycling and walking.
31. Planning permission was previously granted for the conversion of barns to dwellings. The application considered that whilst the development would be contrary to the spatial strategy, it was noted that the wording of the NPPF does allow for conversions outside of settlements. This is however not the case with the current application with the exception of the proposed residential barn conversion on plot 7. It is not therefore considered that the proposed development of plots 1-6 contrary to Policy 3 of the LPP1 is justified.

### **Green Belt**

32. The application site falls within the Green Belt. Paragraph 152 of the NPPF states that development in the Green Belt should be regarded as inappropriate which is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 153 states that when considering any planning application, substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. Exceptions to inappropriate development are set out in paragraph 154 of the NPPF. Certain other forms of development listed under paragraph 155 are also not inappropriate, provided the openness is preserved and there is not a conflict with the purposes of including land within the Green Belt.
34. With regard to the proposed barn conversion to form unit 7 and the associated repurposing of the cart shed to form a garage, this element would comprise the re-use of buildings of a permanent and substantial construction under paragraph 155d) of the NPPF. No extension of the barn or cart shed

are proposed and therefore no impact on the openness of the Green Belt would be resultant. It would not conflict with the purposes of including land within the Green Belt and as such this element of the scheme would comprise an exception to inappropriate development.

35. With reference to the proposed dwellings on plots 1-6, the main consideration is whether the development would comply with criteria e) or g) of paragraph 154 in terms of whether it would comprise:
- e) limited infilling in villages; or
  - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

#### Limited infilling in villages

36. The six proposed dwellings would be arranged in a broad L shape to the west and south of the site, in place of a series of barns and an enclosed area of hardstanding. There are residential properties to the north fronting Cropwell Road, however the south and west boundaries of the site would abut open countryside. The proposal would result in a southern extension of residential development in place of agricultural buildings, which are not considered previously developed land. It is not considered that the proposal would comprise limited infill within a village as an exception to inappropriate development under paragraph 154e) of the NPPF.

#### Previously developed land

37. Previously developed land is defined in the NPPF as land that is or was occupied by a permanent structure and any fixed surface infrastructure. This specifically excludes land that is or was last occupied by agricultural buildings. The application site currently comprises a collection of agricultural buildings/ structures. Planning permission was granted most recently under 22/00458/FUL for the residential conversion of the buildings, however this permission has not yet been implemented nor have the pre-commencement conditions been discharged to allow for development to take place. It is therefore considered that the site remains in agricultural use and thus not previously developed land. It would not therefore comprise an exception to inappropriate development under paragraph 154g) of the NPPF.

#### Very special circumstances

38. The development would not therefore fall within any of the exceptions to inappropriate development in the Green Belt. The applicant has presented what they consider to be very special circumstances to outweigh the harm arising. In summary, the applicant considers these VSC to be:  
That the development would not be contrary to the five purposes of the Green Belt

- a) It would increase the openness
  - b) Improvement in the setting of nearby designated and non- designated heritage assets
  - c) Visual improvement through the removal of functional agricultural buildings and an improvement in architectural design
  - d) An enhancement of landscape character
  - e) Rationalisation of the access
  - f) Improved amenity and outlook for future occupants compared to the consented scheme
  - g) The opportunity for SUDs drainage and biodiversity enhancement.
  - h) Employment opportunities during construction
  - i) Supporting local services
  - j) The fallback position of the extant permission
39. Further consideration will be given to these matters below, and an assessment of any Very Special Circumstances will be undertaken within the conclusion of this report.

#### Openness and the five purposes

40. Paragraph 142 of the NPPF states that the essential characteristics of Green Belts are their openness and their permanence. When considering openness, National Planning Practice Guidance sets out a number of matters which need to be taken into account when making this assessment including:
- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume
  - the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness
  - The degree of activity likely to be generated, such as traffic generation.
41. Paragraph 143 of the NPPF identifies that the Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas
  - b) to prevent neighbouring towns merging into one another
  - c) to assist in safeguarding the countryside from encroachment
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
42. Tithby is washed over by the green belt designation and represents a rural settlement with strong agricultural ties and character. Whilst it is noted that the proposed plots 1-2 and 5-6 have been sited to broadly respond to the form and place of the existing agricultural barns, the nature of the site layout creating a central driveway for access and parking, in place of the central built form, has resulted in a development scheme which by design encroaches further into the open countryside than the existing.
43. Plot 1 would extend further south and further east than the existing built form, and plot 2 further south also. Plots 3 and 4 and most of 5 would be sited partially in place of an area enclosed to three sides with c. 2 metre high concrete panels but also much further south and west of the existing

buildings on site. Plot 6 would be located largely overlaid with the footprint of the north western most building on site. It is considered that the proposed two storey dwellings on these plots would have a greater impact on the openness of the Green Belt than the existing structures.

44. In this regard it is notable that the existing structures on site (the barns to be demolished) have maximum heights of c.7.15m (central building) and 6.7m (north western building), with eaves for the main structures at c. 5.3m and 5.1m respectively, with both buildings then having lower single storey ranges extending away from the core. By comparison the proposed scheme includes all plots facilitating first floor accommodation, and whilst this takes a variety of forms of notable architectural merit, the heights of these structures, now spread away from the core of the site towards the extremities, would all at their maximum be taller, ranging from 7.3m to 7.956m to ridge, and 4.45m to 6.09m to eaves.
45. As such whilst the scheme presented may present a reduced 'footprint' of development over the existing barns, the layout of the scheme and scale and massing of the buildings would spread and proliferate away from the core of the site, resulting in taller development around the site periphery, as well as additional gardens extending from the buildings, which would clearly result in demonstrable encroachment of development into the open countryside. This would be contrary to the purposes of the green belt, most specifically that as set out in paragraph 143 'c' of the NPPF. Accordingly, the scheme as proposed is considered to result in visual and spatial harms to the openness of the greenbelt.

### **Design Visual amenity and heritage assets**

46. The Grade I Listed Church of the Holy Trinity is located to the north of Cropwell Road, along with its associated listed churchyard wall and headstones/ chest tombs. The Grade II Listed Old Vicarage is located to the north west of the site. The proposal therefore falls to be considered under chapter 16 of the NPPF (Conserving and Enhancing the Historic Environment). Paragraph 206 of the NPPF states that any harm arising to a designated heritage asset should require clear and convincing justification. Where a development would lead to substantial harm to, or total loss of, a designated heritage asset, then permission should be refused unless it can be demonstrated that substantial public benefits can be achieved that outweigh the harm or loss, or that all of the criteria under paragraph 207 can be satisfied. Where a development would lead to less than substantial harm then under paragraph 208 this harm should be weighed against the public benefits of the scheme, including securing its optimal viable use.
47. Further to this, the Borough Council has a duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special regard to be paid to the desirability of preserving listed buildings, their setting or features of special architectural or historical interest that they possess.
48. The existing portal framed barns are of a functional appearance which whilst appropriate for their original use and typical of more modern agricultural development in the rural environment and does not contribute positively to the character of the area. The more historic brick built barns which relate

more closely to the farmhouse adjacent can however be seen to positively influence the environment, with the heritage helping to inform the character of the area and development over time.

49. The application proposes the removal of the portal barns and their replacement with a series of dwellings of a bespoke and high-quality design that reference the agricultural nature of the site in a clear contemporary way. For example, the barn style building on plot 6 would have a strong linear character and be faced in Corten steel, the 'Dutch barn' and 'agricultural shed' style buildings on plots 3-5 have clear agricultural influences whilst plots 1 and 2 would reference the more traditional brick buildings in the style of a farmhouse and a stable and cart shed respectively. Overall, it is considered that the proposal would elevate the architectural design quality of the area, and whilst it would be considered to form a bespoke architectural solution to the site, it is not considered that the scheme would be redolent of a farmstead in its typology. As such, whilst the scheme would be considered high quality in its architectural form, it would represent a clear more domestic incursion into the open countryside, detrimental to the rural amenities of the area.
50. The proposed conversion and re-use of the existing barns would be considered appropriate, with existing openings re-used where possible and the intrinsic characteristics of these more historic agricultural buildings considered to be protected, and sympathetically adapted.
51. With regards to heritage the proposal would not be clearly intervisible in views of the church due to the location of the site behind the frontage properties and buildings on Cropwell Road. It is not considered that the proposal would harm the setting of the church and associated listed elements or the Old Vicarage. The proposal would therefore preserve the setting of the listed buildings as a desirable objective under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Landscape character**

52. The site is clearly visible from the surrounding open countryside with public views from Tythby Road to the east and a public right of way that follows the hedge field boundary to the west.
53. The previous application sought the residential conversion of the existing barns, retaining their form and some of the functional agricultural character of the buildings. Whilst the current proposal would be of a high-quality design, the construction of new dwellings would introduce an urbanising and domestic character to the street scene notably with regard to the most visible dwelling on plot 1 which would be a brick construction with clearly domestic features rather than reflecting the agricultural character of the site and surroundings.

### **Highways**

54. The application seeks the consolidation of the access to a single access point. This would represent an improvement in terms of a reduced incursion into the open countryside compared to the route of the current southern access track. The Highway Authority does not object to the proposal and it is

noted that sufficient visibility can be achieved. Each plot would be serviced with appropriate off-street parking facilities and provision of Electric Vehicle Charging points could be secured by condition.

55. As a private drive is proposed it would not be expected that refuse lorries would enter the site, instead waste would be collected from the roadside on Tythby Road. Details of a bin collection point could be appropriately secured by condition. The access includes appropriate turning space for cars, delivery vans and fire appliances and as such there are no other access, servicing or highways concerns.

### **Amenity of future occupiers**

56. Each of the dwellings would be provided with a private rear garden in excess of the minimum garden size standards set out in the Residential Design Guide. The layout proposed in the current application would represent an improvement in terms of garden sizes and orientation. The internal space within each dwelling would comply with the Nationally Prescribed Space Standards and each habitable room would be provided with a window providing light and a degree of outlook. Given the layout of the dwellings and positioning of windows, there would not be an undue overlooking or overbearing relationship between dwellings or an undue overshadowing of the respective rear garden areas from neighbouring buildings.
57. The Borough EHO has noted potential contamination concerns with the site given its former uses. Subject to appropriate conditions relating to contaminated land reports, remediation and verification this risk could be controlled, and appropriate amenities for future occupiers and site workers could be secured.

### **Amenity Of Neighbouring Residents**

58. In relation to neighbouring occupiers the proposed new build houses would not directly adjoin any neighbours so as to give rise to any possible overbearing, overshadowing or overlooking impacts. The closest relationship would be between the proposed converted barn, and neighbours to the north at Hollytree Farm House and the neighbouring dwelling to the north east. The barn conversion has been sensitively proposed with any openings towards the gardens of these neighbours, which would be directly abutting the building, to be blocked up, and as such the proposed conversion would also not give rise to any significant amenity concerns with regards to overlooking. No extensions to the existing form of this building are proposed and so there would be no change to the existing relationships in relation to overbearing and overshadowing.
59. The use of the access, remodelled from the existing uncontrolled farm access, would not be considered to bring about any significant noise or disturbance concerns.

### **Biodiversity and SUDs**

60. The application seeks biodiversity enhancement through the formation of a biodiverse area to the south east corner of the site, along with a significant reduction in the area of impermeable hard surfacing across the site which the

submitted Design and Access Statement states would ensure that an equivalent or enhanced biodiversity net gain to that secured through the extant permission.

61. Subsequently the applicant has submitted a Net Gain Assessment which shows a potential 39% net gain for the scheme using the retained biodiversity gain area within the site and adjoining land along Tythby Lane within the applicants ownership. Such provisions could be secured by way of appropriate planning condition, along with its appropriate long term management. The provision of this notable net gain must weigh positively in support of the scheme and represents a benefit to the development.
62. In relation to drainage and SUDS, it is noted that the applicant suggests that the scheme can deliver enhancements to existing site drainage through the provision of appropriate SUDS on site. No technical supporting documentation has been provided to demonstrate the viability of such an approach however it is considered reasonable to control the details of surface water and foul water drainage by condition, advocating a SUDS first approach in accordance with policy 18 of the LPP2.

### **Economic benefits**

63. The proposal would provide some economic benefits during the construction phase. However, these would be temporary and minor in scale given the scope of the scheme and as such could only be afforded very limited weight. The occupation of the dwellings may provide benefit in terms of enhancing the vitality and viability of the settlement and supporting surrounding facilities, however such benefits would not be notably different in scale to those associated with the extant approval on site for the conversion of the existing buildings to housing. As such, the economic benefits of the scheme can only be given very limited weight.

### **Fallback of extant permission**

64. Exceptions to inappropriate development in the Green Belt (listed under para 154 of the NPPF included) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
65. Previously developed land, by definition of the NPPF, excludes land that is or was last occupied by agricultural buildings. As such, the site at present cannot be considered to represent previously developed land.
66. The applicant considers that if the previous permission for the residential conversion of the buildings were to be implemented, then this would render the site previously developed land. Accordingly, this 'fall-back' position is cited as a Very Special Circumstance. However, it is the view of officers that the application site should be considered in its current state and it is noted that the required pre-commencement conditions to allow the previously approved development to proceed have not yet been discharged. As such, it is considered that little weight can be given to this as a VSC.

67. Nevertheless, the provision under 154'g' of the NPPF, is as follows: “g) *limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
- *not have a greater impact on the openness of the Green Belt than the existing development; or*
  - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*
68. The key assessment would therefore lie in whether the proposed development would have a greater impact on the openness of the green belt than the existing. In this case, as outlined through the green belt assessment made earlier in this report, it is considered that fundamentally the development as proposed would have a demonstrable impact on the openness of the green belt in comparison to the existing and pertinently in this case to the approved conversion scheme which included no extension to the built form, and the removal of the concrete walling to the west of the site.
69. As such, even when the fall back position is considered with regard to the potential use of previously developed land, it would still be considered that the development would reduce the openness of the green belt and therefore represent inappropriate development in the greenbelt.

### **Ecological considerations**

70. The application is accompanied by an ecological survey which identified buildings B3, B4, B6, and B7 as supporting a non-breeding roost of pipistrelle. The work would therefore require a European Protected Species derogation licence.
71. The Borough Council has a legal duty when determining a planning application for a development which may have an impact on protected species. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats Etc.) Regulations 1994, contain three tests which Natural England must apply when determining a licence application. This licence is normally obtained after planning permission has been obtained. However, notwithstanding the licensing regime, the Planning Authority must also consider these tests when determining a planning application. A Planning Authority failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations.
72. In general, five key principles are applied to each licence application:
1. There is a genuine need and a 'purpose' for the proposed activity.
  2. There are no satisfactory alternatives to delivering and meeting the need in the way proposed.
  3. The licensed action will allow the need to be met.
  4. That the proposals are proportionate.
  5. That there will be no adverse effect on the conservation status of the species concerned.
73. To comply with the above legislation, a licence can only be granted if the following three tests can be met:

- a) the activity is for a certain purpose, for example it's in the public interest to build a new hospital
  - b) there's no satisfactory alternative that will cause less harm to the species
  - c) the activity doesn't harm the long-term conservation status of the species
74. When considering 'imperative reasons of overriding public interest, including those of a social and economic nature' Natural England will take into account whether the activities/ developments are required to meet or provide a contribution to meeting a specific need such as:
- the requirement to maintain the nation's health, safety, education, environment (sustainable development, green energy, green transport)
  - complying with planning policies and guidance at a national, regional and local level
  - requirements for economic or social development (Nationally Significant Infrastructure Projects, employment, regeneration, mineral extraction, housing, pipelines, etc.).
75. The proposal would provide some public benefits through the provision of new housing of a sustainable and energy-efficient design as detailed in the Design and Access Statement. Two of the three buildings with roosts are to be re-used rather than demolished representing a reduction in carbon emissions through construction. These buildings represent non-designated heritage assets whose preservation is therefore in the public interest. Any works to re-purpose and maintain the buildings would likely bring about the same conflict with the existing roosts and as such it is not considered that there is a satisfactory alternative to the proposal.
76. Part 4 of the bat survey proposes mitigation measures comprising the installation of bat boxes/ bricks along with precautionary measures relating to the timing of works and the need for a repeat survey should works not take place until late summer/ autumn 2024. Subject to these measures, it is considered unlikely that the development would have a detrimental impact on populations of protected species and the 3 tests as set out by Natural England are considered to be passed.

### **Very Special Circumstances and Conclusions**

77. Paragraph 153 of the NPPF advises that: "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations." This national policy advice is reinforced within policy 21 of the LPP2, which states that applications for development within the Green Belt should be determined in line with the NPPF.
78. As outlined in paragraph 39 of this report above, the applicant considers there to be numerous benefits to the scheme that would amount to very special circumstances that would clearly outweigh the harm to the green belt (substantial weight), and any other harm. These matters have been considered carefully through the body of this report, and whilst some matters such as BNG (39%), employment opportunities and support for local services can be attributed weight in support of the scheme, for the reasons outlined in

the report it is not considered that all of the factors outlined by the applicant are matters that support the scheme, notably those in relation to the fall back position, impact on openness, enhancement to the setting of heritage assets and visual enhancements to the character of the area. Overall in support of the scheme, it is considered that the development proposal would provide some modest economic, environmental and social benefits.

79. The benefits of the scheme must be weighed against harm to the Green Belt and also any other 'harms' arising. In terms of Green Belt harm, the development of new buildings for housing would represent inappropriate development, therefore harmful by definition to the green belt, with the scheme resulting in a moderate level of impact on the openness of the Green Belt given the encroachment of built form within the countryside contrary to the 5 purposes of the green belt. The changes would be permanent and perceptible. Other harms include conflict with the spatial strategy, and harm to the character and appearance of the area through the domestic encroachment into the countryside.
80. In summary, the proposed development is inappropriate development and is therefore harmful by definition. Substantial weight is attached to that harm. Against the totality of the harm, the above factors have been identified which weigh in support of the scheme. It is however not considered that these factors would together represent Very Special Circumstances that would clearly outweigh the harm to the Green Belt, and that of the additional harms arising.
81. It is, therefore, considered that the proposed development would represent inappropriate development in the Green Belt and that there are no very special circumstance to justify the development or to outweigh harm to the Green Belt.
82. There is a fundamental policy objection to the proposal and it is considered that this cannot be overcome. The applicant has been made aware of the situation in writing. In order to avoid the applicant incurring further abortive costs and time delays, consideration has not been delayed by discussions to resolve this objection, resulting in a recommendation to refuse planning permission.

## **RECOMMENDATION**

It is **RECOMMENDED** that planning permission be refused for the following reasons:

1. The proposed development would not comprise limited infill within the village as an exception to inappropriate development under paragraph 154e) of the National Planning Policy Framework. It would not fall within any of the other exceptions to inappropriate development in the Green Belt listed under paragraph 154 of the NPPF, nor would it fall within the categories of certain other forms of development listed under paragraph 155 that are also not inappropriate, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

The proposal would constitute an inappropriate and therefore harmful form of development for which 'very special circumstances' have not been demonstrated

to clearly outweigh the harm arising. A decision to refuse planning permission would accord with paragraph 152 of the NPPF which states that "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".

The proposal would be contrary to the fundamental aim of Green Belt Policy as detailed under paragraph 142 of the NPPF which is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

2. The proposed development would result in harm to the rural character and setting of the settlement and a detrimental 'urbanising effect' by the domestic incursion into the countryside and extension of the settlement boundary by virtue of the construction of new residential dwellings, with associated access, landscaping and domestic gardens in place of the current barns, and the loss of the existing agricultural character of the site.

The proposal would be contrary to criterion 4 and 5 Policy 1 of the Local Plan Part 2: Land and Planning Policies which states Planning permission for new development, changes of use, conversions or extensions will be granted provided that, where relevant, the following criteria are met:

4. the scale, density, height, massing, design, layout and materials of the proposal is sympathetic to the character and appearance of the neighbouring buildings and the surrounding area. It should not lead to an over intensive form of development, be overbearing in relation to neighbouring properties, nor lead to undue overshadowing or loss of privacy; and
7. there is no significant adverse effects on landscape character;

The proposal would be contrary to paragraph 135 (a,b,c) of the NPPF which states that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
3. Policy 3 of the Rushcliffe Borough Local Plan Part 1: Core Strategy sets out the spatial strategy for housing delivery in the Borough which seeks to ensure that sustainable development will be achieved through a strategy which promotes urban concentrations by directing the majority of development towards the built up areas of Nottingham and Key Settlements. In other settlements the Core Strategy at para 3.3.17 envisages that development should be for local needs only through small scale infill development or on exception sites. Paragraph 3.9 of the Local Plan Part 2 lists a number of smaller settlements which are capable of accommodating a limited number of dwellings. Paragraph 3.10 states that beyond these allocations, development will be limited to small scale infill development, defined as development of small gaps within the existing built fabric of the village or previously developed sites whose development would not have a harmful impact on the pattern or character of the area.

The application site does not represent limited infill, or previously developed land where the proposed scheme would not have a harmful impact on the pattern or

character of the area. As such the development would be contrary to policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy and paragraph 3.10 of the Local Plan Part 2 as well as policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policy and the National Planning Policy Framework.